

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ELWOOD JONES, JR.	:	
Petitioner,	:	CASE NO. C-1-01-564
v.	:	JUDGE THOMAS M. ROSE
MARGARET BAGLEY, WARDEN	:	MAGISTRATE JUDGE MERZ
Respondent.	:	

WARDEN'S OPPOSITION TO ELWOOD JONES PRO SE SUPPLEMENTAL BRIEF

Respectfully submitted,

JIM PETRO
Ohio Attorney General

s/ Heather L. Gosselin
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COUNSEL FOR RESPONDENT

On May 14, 2004, Magistrate Judge Merz received a letter from Petitioner Elwood Jones (hereinafter "Jones"). In that letter, Jones requested that the Court file his February 6, 2004 affidavit. By Order issued July 3, 2004, this Court ordered the parties to "file with the Court counsel's positions on the manner in which the Court should handle the Pro Se Affidavit" on or before July 1, 2004. The parties have submitted their briefs. Both parties requested that the parties bring Petitioner and all counsel to Court to discuss the issue and question Jones regarding his desires. The parties are currently awaiting further direction from this Court.

In the meantime, Petitioner has filed some additional pro se documents. It appears from these documents that Jones is now moving to withdraw his February 6, 2004 affidavit and instead apparently requests that this Court grant him an evidentiary hearing. The Warden submits this pleading merely to place on the record her desire to contest any motion for evidentiary hearing. In light of the unique posture of this case, the Warden will await further order from this Court before briefing the issue of whether or not Jones meets the requirements for an evidentiary hearing. The Warden merely files this opposition now, in an abundance of caution, to defend against any future arguments that the Warden has waived her right to contest an evidentiary hearing.

Respectfully submitted,

JIM PETRO
Ohio Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Warden's Opposition to Elwood Jones Pro Se Supplemental Brief* has been delivered to Gregory Meyers, Ohio Public Defender's Office, 8 East Long Street, 11th Floor, Columbus, Ohio 43215-0587 **and** James David Owen, 5354 North High Street, Suite 3D, Columbus, Ohio 43214, via this Court's electronic filing system on this the 12th day of August 2004, **and** upon Petitioner Elwood Jones by placing a copy in regular U.S. mail to Elwood Jones, #339-441, #2-House 2050, P.O. Box 788, Mansfield Correctional Institution, Mansfield, Ohio 44901 on the 13th day of August 2004.

s/ Heather L. Gosselin
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Deputy Attorney General